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IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

11 Andres Villanueva, NO. C 07-05733 JW

12 Plaintiff,  
v.

**ORDER DISMISSING COMPLAINT  
PURSUANT TO FED. R. CIV. P. 4(m)**

Mis Amigos Meat Market, et al.,

## Defendants.

16 On November 13, 2007, Plaintiff filed a Complaint against Defendants. (Docket Item No. 1.)  
17 The Court had set a Case Management Conference for April 7, 2008 . Plaintiff failed to file a Case  
18 Management Statement in accordance with the Civil Local Rules. The docket reflected that Plaintiff  
19 had yet to serve Defendants. On April 4, 2008, the Court vacated the conference and set a hearing  
20 on an Order to Show Cause re: Dismissal Under Rule 4(m). (See Docket Item No. 4.) The Order  
21 required Plaintiff to file a certification by April 18, 2008 to explain why this case should not be  
22 dismissed for failure to serve Defendants in accordance with Rule 4(m). The Order stated: “If  
23 Plaintiff fails to file the certification by April 18, 2008, the Show Cause hearing will be vacated  
24 automatically and the case will be dismissed pursuant to Rule 4(m).” The Order also warned:  
25 “Failure to comply with any part of this Order will be deemed sufficient grounds to dismiss this  
26 action.” To date, Plaintiff has failed to file any certification with the Court.

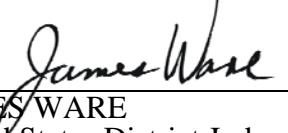
27       Federal Rule of Civil Procedure 4(m) provides: “If a defendant is not served within 120 days  
28 after the complaint is filed, the court . . . must dismiss the action without prejudice against that

1 defendant or order that service be made within a specified time. But if the plaintiff shows good  
2 cause for the failure, the court must extend the time for service for an appropriate period.” Fed. R.  
3 Civ. P. 4(m). Here, Plaintiff filed the Complaint on November 13, 2007. Thus, Plaintiff should  
4 have served Defendants by March 12, 2008. To date, no certificate of service has been filed with  
5 respect to any of the Defendants. In addition, Plaintiff has failed to file any request for extension of  
6 time for service. Accordingly, the Court DISMISSES this action pursuant to Rule 4(m).

7 In light of this Order, the hearing presently scheduled for April 28, 2008 is VACATED.

8 The Clerk shall close this file.

9  
10 Dated: April 22, 2008

  
11 JAMES WARE  
12 United States District Judge

1 **THIS IS TO CERTIFY THAT COPIES OF THIS ORDER HAVE BEEN DELIVERED TO:**

2 Adam Wang waqw@sbcglobal.net

3 **Dated: April 22, 2008**

4 **Richard W. Wiking, Clerk**

5 **By: /s/ JW Chambers**

6 **Elizabeth Garcia  
Courtroom Deputy**